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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LANTHEUS MEDICAL IMAGING, INC.,

Plaintiff,

v.

ZURICH AMERICAN INSURANCE  
COMPANY,

Defendant.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/10/12

Case No. 10 Civ. 9371 (JPO) (JLC)

~~PROPOSED~~ ORDER AMENDING PRE-  
TRIAL SCHEDULING ORDER

ECF CASE

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~~PROPOSED~~ ORDER AMENDING PRE-TRIAL SCHEDULING ORDER

James L. Cott, United States Magistrate Judge:

Upon good cause shown, by consent of the parties, and to accommodate obtaining foreign discovery, the deadlines set forth in the Court's Pre-Trial Scheduling Order (Dkt. No. 18) ("the Pre-Trial Scheduling Order"), which were amended by the Court's Orders Amending Pre-Trial Scheduling Orders, dated October 28, 2011 (Dkt. No. 56), February 10, 2012 (Dkt. No. 68) and June 18, 2012 (Dkt. No. 73), are further amended as follows:

1. The parties shall complete non-expert discovery by October 15, 2012 except that the parties may pursue third-party discovery from Atomic Energy of Canada Limited ("AECL") or matters reasonably arising from discovery of AECL until the AECL-related Discovery Deadline, which shall be the earlier of (a) 30 days after AECL completes its production of documents and information to Lantheus or (b) 30 days after Lantheus exhausts any appeals available in the Canadian legal system with respect to the information and documents it seeks from AECL.

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DATE SCANNED 10/10/12

2. As Lantheus seeks to depose Zurich witnesses both on topics that arise out of AECL-related discovery and on topics unrelated to AECL and as the parties seek to avoid unnecessarily burdening witnesses with multiple depositions, Lantheus may depose Zurich witnesses on any and all topics after October 15, 2012 notwithstanding ¶ 1 above provided that such depositions are noticed and take place before the AECL-related Discovery Deadline. The foregoing does not limit or restrict Lantheus' right to depose Zurich witnesses prior to October 15, 2012.

3. The limit of 10 depositions per party, provided for in Federal Rule of Civil Procedure 30(a)(2)(A)(i) applies to this case.

4. The deadline set forth in Paragraph 12 of the Pre-Trial Scheduling Order by which the parties must begin meeting with a third-party for settlement purposes is amended to: 7 days after the AECL-related Discovery Deadline.

5. Except as set forth below in ¶ 6, Lantheus shall serve its expert reports 4 weeks after the AECL-related Discovery Deadline; Zurich shall serve its expert reports 4 weeks thereafter; and Lantheus shall serve its rebuttal reports, if any, 3 weeks thereafter. The deadline for the completion of expert discovery shall be two weeks after the service of Lantheus' rebuttal report(s).

6. Lantheus shall serve its expert report on damages by October 30, 2012; Zurich shall serve its expert report on damages by November 30, 2012; Lantheus shall serve its rebuttal report on damages, if any, by December 17, 2012. The parties shall complete expert discovery as to damages by January 18, 2013.

7. The deadline for the submission of dispositive motions set forth in paragraph 3 of the Pre-Trial Scheduling Order shall be 13 weeks after the AECL-related Discovery Deadline;

nothing in this paragraph precludes either party from filing dispositive motions after the AECL-related Discovery Deadline but prior to the deadline set forth herein. The parties shall comply with paragraph 4.F. of the Individual Practices of Judge J. Paul Oetken prior to the filing of any summary judgment motions.

7. Upon the AECL-related Discovery Deadline, the parties shall contact the Court to request a date for a final pretrial conference consistent with the schedule set forth herein.

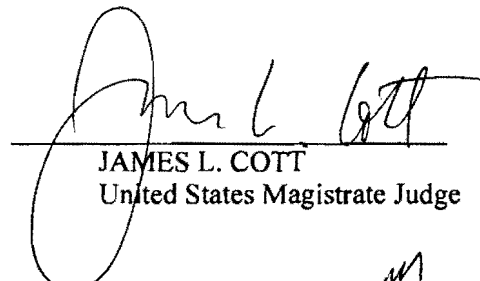
8. All other provisions of the Pre-Trial Scheduling Order remain in effect.

9. This Order supersedes this Court's prior Orders Amending Pre-Trial Scheduling Order, dated October 28, 2011 (Dkt. No. 56), February 10, 2012 (Dkt. No. 68) and June 18, 2012 (Dkt. No. 73).

10. This Court will hold a status conference, by telephone, on FEBRUARY 1, 2013 at 11 AM to ascertain the status of Lantheus' appeal of the Ontario Superior Court's dismissal of its Application to Enforce this Court's Letters Rogatory as to AECL. The parties shall call chambers for the telephone conference with both parties on the line.

**SO ORDERED.**

Dated: New York, New York  
October 10, 2012

  
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JAMES L. COTT  
United States Magistrate Judge  
